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Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipality
Municipality:	Town of Bethlehem
Year:	2016
Community Type – applicable to:	Suburban
Title:	Town of Bethlehem, New York Code § 128-67.2 – Solar photovoltaic (PV) systems.
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Abstract

§ 128-67.2 of the Town of Bethlehem, New York's Code specifies zoning requirements for various types of solar collector units in different zoning districts within the City. For a building-mounted system, solar panels shall be set back no less than 3' from the edge of the roof to allow for fire access and ventilation. On sloped roofs, this requirement does not apply along that portion of the bottom edge located more than 3' from a side edge. Small-scale ground-mounted systems shall be permitted in a required minimum side yard or rear yard setback, provided that such system shall be set back not less than 10' from any rear or side lot line. Large-scale ground-mounted systems are subject to the minimum yard and setback requirements for the applicable zoning district. No part of a ground-mounted system shall extend into the required yards and/or setbacks due to a tracking system or short-term or seasonal adjustment in the location, position or orientation of solar PV-related equipment or parts. If system is located on a lot that adjoins a residential district, an additional setback shall be provided between the residential district and all site improvements associated with the system. The additional setbacks are intended to provide a visual buffer between the residential district and ground-mounted system. The additional setback, as well as the minimum setback area, shall be planted with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the ground-mounted system from residential uses. Systems shall be set back an additional 120' when located in a residential district and an additional 110' when located commercial and mixed-use districts. These additional setback dimensions shall be from the minimum yard setback along all property lines that abut a lot located in a residential district and shall also apply to the front yard setback when the lot on the opposite side of the street is located in a residential district.

Building-integrated and building-mounted solar PV systems (installed to face any rear, side and front yard area) are a permitted by-right accessory use in any zoning district. A special use permit is required for (1) ground-mounted PV systems, (2) Building-mounted and building-integrated solar PV systems that have a system capacity greater than 12kW or generate more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot where the system is located, (3) PV systems, regardless of size, that generate and provide electricity, through a remote net-metering

agreement or other arrangement, to an off-site user or users located on a lot(s) other than the lot on which the system is located, (4) PV systems, regardless of size, mounted on carports or canopy structures covering parking facilities.
Solar PV systems requiring a special use permit may be classified as either an accessory use or a principal use: Principal if providing electricity to an off-site user. Accessory if generating electricity for the sole consumption of a principal use(s) or building(s) located on the same lot as the system. According to the Schedule of Uses, these principal uses are permitted by special use permit in the Rural (R), Mixed Economic Development (MED), Heavy Industrial (I), and Rural Light Industrial (RLI) zones. The accessory uses are permitted by special use permit in all zones.

Resource

§ 128-67.2 – Solar photovoltaic (PV) systems.

A. Purpose.
    1. It is the purpose of this section to encourage and promote the safe, effective and efficient use of installed solar photovoltaic (PV) systems that reduce on-site consumption of utility- supplied energy while protecting the health, safety and welfare of adjacent and surrounding land uses and properties.
    2. It is the intent of this section to:
        a) Meet the goal of the 2005 Bethlehem Comprehensive Plan to promote energy efficiency and conservation, and the use of renewable energy in the Town;
        b) Support green economy innovations as adopted in the 2009 Bethlehem Climate Smart Community Resolution; and
        c) Support New York State in meeting its renewable energy goals established by the 2015 New York State Energy Plan as implemented through the Reforming the Energy Vision Initiative.
    3. Solar energy is an abundant and renewable energy resource, and its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the greenhouse gas emissions that result from the use of conventional energy sources.
B. Applicability.
    1. This section applies to building-mounted, building-integrated and ground-mounted solar photovoltaic systems installed and constructed after the effective date of this section.
    2. This section also applies to any upgrade, modification or structural change that alters the physical size, electric generation capacity, location or placement of an existing solar PV system.
    3. Nonconforming solar PV systems. Nonconforming solar PV systems existing on the effective date of this section may be altered or expanded provided such alteration or expansion does not increase the extent or degree of nonconformity.
    4. Properties with approved site plan. Notwithstanding the requirements of § 128-68C(2)(e) of this chapter, for any lot that has an approved site plan, the installation of a "by- right" solar PV system on the lot shall not be considered

a change to the approved site plan. This provision shall not be interpreted to exempt lots with an approved site plan from other requirements of this section.

5. Prohibition. Solar PV systems attached to the side of a building are prohibited unless they are designed as a building integrated system.

C. Definitions. For the purpose of this section the following terms shall have the meanings indicated.

BUILDING-INTEGRATED SOLAR PV SYSTEM — A solar PV system that is designed and constructed as an integral part of a principal or accessory building. Components of a building- integrated system are designed to replace or substitute for architectural or structural elements of a building and generally complement, blend with or form part of a building's architectural appearance. Such components will generally maintain a uniform plane with, and/or form a part of, the walls, window openings, roofing and/or other building elements into which they are integrated. Such a system is used in lieu of a separate solar PV system where components of the system are designed and attached to a building independent of building architecture. A building-integrated system may occur within vertical facades, replacing view glass, spandrel glass or other facade material; within semitransparent skylight systems; within roofing systems, replacing traditional roofing materials; or within other building envelope systems.

BUILDING-MOUNTED SOLAR PV SYSTEM — A solar PV system that is attached to the roof of a building.

GROUND-MOUNTED SOLAR PV SYSTEM — A solar PV system, including its specialized solar racking or other mounting system, which is installed on the ground and not attached to any other structure.

GROUND-MOUNTED SOLAR PV SYSTEM, LARGE-SCALE — A ground-mounted solar PV system that has a system capacity greater than 12kW or generates more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s)existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

GROUND-MOUNTED SOLAR PV SYSTEM, SMALL-SCALE — A ground-mounted solar PV system that is limited to a system capacity of 12kW and generates no more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

KILOWATT (kW) — A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not

energy) and is the rate (not the duration) at which electricity is used; 1,000 kW is equal to one megawatt (MW).

KILOWATT-HOUR (kWH) — A unit of energy equivalent to one kilowatt of power expended for one hour of time.

LOT COVERAGE — Notwithstanding the definition of lot coverage found elsewhere in this chapter, for the purpose of this section lot coverage shall also include the area covered by a solar panel (or physically connected group of panels) as measured on a horizontal plane projected from the perimeter of said panel (or group of panels) vertically to the ground. For panels where the tilt angle is adjusted by week, month, season or other time period, lot coverage shall be determined by the tilt angle producing the greatest lot coverage.

NET METER — A meter used to measure the flow of electricity from the solar PV system to the electric utility grid for the purposes of net metering.

REMOTE NET METERING — An arrangement with the electric utility that allows for the kilowatt hours (kWh) generated from a solar PV system located at a specific site to be credited towards kWh of consumption at a different location.

SOLAR ARRAY — Any number of electrically connected solar photovoltaic (PV) panels that are connected to the same inverter.

SOLAR PANEL — A large, flat piece of equipment containing photovoltaic cells that use the sun's light or heat to create electricity.

SOLAR PHOTOVOLTAIC (PV) SYSTEM — A solar energy collection system consisting of solar photovoltaic cells, panels and/or arrays, and solar-related equipment, which rely upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation. A solar PV system may be building-mounted, ground-mounted or building-integrated.

D. Facilities permitted by right.
    1. By-right solar PV systems. In order to encourage use of solar PV systems in the Town of Bethlehem, the following systems shall be permitted by right in any zoning district in the Town, provided the system is generating electricity only for the land use(s) located on the same lot as the system, and further provided that the system meets the standards for by-right systems identified in § 128-67.2D(2) below. By-right systems require a building permit.
        a) Building-integrated solar PV systems. Building-integrated solar PV systems are permitted to face any rear, side and front yard area.
        b) Building-mounted solar PV systems. Building-mounted solar PV systems are permitted to face any rear, side and front yard area.
    2. Standards for by-right systems.

a) Accessory use. By-right solar PV systems shall be considered an accessory use.
b) Maximum system size. By-right solar PV systems shall be limited to a system capacity of 12kW and shall generate no more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.
c) By-right facilities shall comply with all applicable New York State Building Codes.1
d) Building-mounted solar PV systems.
    1. For a building-mounted system installed on a sloped roof:
        a) The highest point of the system shall not exceed the highest point of the roof to which it is attached.
        b) Solar panels shall be parallel to the roof surface, or tilted with no more than an eighteen-inch gap between the module frame and the roof surface.
    2. For a building-mounted system installed on a flat roof, the highest point of the system shall not extend more than five feet above the height of the roof.
    3. For a building-mounted system, solar panels shall be set back no less than three feet from the edge of the roof to allow for fire access and ventilation. On sloped roofs, this requirement does not apply along that portion of the bottom edge located more than three feet from a side edge. In the event New York State shall adopt regulations that govern the placement of roof-mounted solar panels for fire prevention purposes, said regulations shall supersede this setback provision.

E. Facilities requiring a special use permit.
    1. Solar PV systems requiring a special use permit. Except as provided in §128-67.2D, Facilities permitted by right, preceding, no solar PV system shall be constructed or installed without first obtaining a special use permit and site plan approval from the Planning Board pursuant to Article VII of this chapter. In addition, all solar PV systems shall require a building permit. Solar PV systems requiring a special use permit and site plan approval shall include, but not be limited to:
        a) Ground-mounted solar PV systems.
        b) Building-mounted and building-integrated solar PV systems that have a system capacity greater than 12kW or generate more than 110% of the kWh's of electricity consumed over the previous twelve-month period by land use(s) existing on the lot where the system is located. In applying this standard, electricity consumption shall be determined by submission of utility bills showing electric usage over said twelve-month period.

c) Solar PV systems, regardless of size, that generate and provide electricity, through a remote net-metering agreement or other arrangement, to an off-site user or users located on a lot(s) other than the lot on which the system is located.
d) Solar PV systems, regardless of size, mounted on carports or canopy structures covering parking facilities.

2. Classification: Solar PV systems requiring a special use permit may be classified as either an accessory use or a principal use as set forth below.
    a) Principal use. A solar PV system constructed on a lot and providing electricity to an off-site user or users through a remote net-metering agreement or other arrangement, shall be considered a principal use. All ground-mounted solar PV systems that are classified as a principal use shall adhere to the area, yard and bulk requirements of the zoning district in which the system is located, unless modified herein by § 128-67.2E(3) below.
    b) Accessory use/accessory structure. A solar PV system shall be considered an accessory use/accessory structure when generating electricity for the sole consumption of a principal use(s) or building(s) located on the same lot as the system. Notwithstanding the location and maximum coverage provisions for accessory uses/accessory structures found elsewhere in this chapter, all large-scale ground-mounted solar PV systems that are classified as an accessory use/accessory structure shall adhere to the minimum area, yard and bulk requirements for principal uses within the zoning district in which the system is located, unless modified herein by § 128-67.2E(3) below.
3. Standards for facilities requiring a special use permit.
    a) Small-scale ground-mounted solar PV systems as accessory use. Notwithstanding the location and height standards for accessory structures and accessory uses found elsewhere in this chapter, the following height, location and minimum yard/setback standards shall apply to small-scale ground-mounted solar PV systems that are classified as an accessory use:
        1. Location. Small-scale ground-mounted solar PV systems may be located within the side or rear yard. Location in a front yard is prohibited, including location in any front yard of a corner lot.
        2. Rear and side yard. Small-scale ground-mounted solar PV systems shall be permitted in a required minimum side yard or rear yard setback, provided that such system shall be set back not less than 10 feet from any rear or side lot line.
        3. Height. Small-scale ground-mounted solar PV systems shall not exceed a height of 12 feet.
        4. Lot coverage. Small-scale ground-mounted solar PV systems shall comply with the lot coverage requirements as defined in §§ 128-67.2C and 128-22 of this chapter.
    b) Large-scale ground-mounted solar PV systems and ground-mounted systems classified as a principal use.

1. Setbacks. Large-scale ground-mounted solar PV systems are subject to the minimum yard and setback requirements for the zoning district in which the system is located. No part of a ground-mounted system shall extend into the required yards and/or setbacks due to a tracking system or short-term or seasonal adjustment in the location, position or orientation of solar PV-related equipment or parts.
2. Setback to residential district. If a large-scale ground- mounted solar PV system is located on a lot that adjoins a residential district, an additional setback shall be provided between the residential district and all site improvements associated with the system. The additional setbacks are intended to provide a visual buffer between the residential district and ground-mounted system. The additional setback, as well as the minimum setback area, shall be planted with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the ground-mounted system from residential uses. The species type, location and planted height of such landscaping shall be subject to the approval of the Planning Board.
    a) Large-scale ground-mounted solar PV systems located in a residential district shall be set back an additional 120 feet from the minimum yard setback along all property lines that abut a lot located in a residential district. This additional setback dimension shall also apply to the front yard setback when the lot on the opposite side of the street is located in a residential district.
    b) Large-scale ground-mounted solar PV systems located in commercial and mixed-use districts shall be set back an additional 110 feet from the minimum yard setback along all property lines that abut a lot located in a residential district. This additional setback dimension shall also apply to the front yard setback when the lot on the opposite side of the street is located in a residential district.
3. Utility connections. Utility lines and connections from a large-scale ground-mounted solar PV system shall be installed underground, unless otherwise determined by the Planning Board for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
4. Fences. Notwithstanding the provisions found in § 128-47 of this chapter, fences not exceeding eight feet in height, including open-weave chain-link fences and solid fences, shall be permitted for the purpose of screening or enclosing a large-scale

ground-mounted solar PV system regardless of the district in which the system is located, provided said system is classified as a principal use. In instances where the provisions of § 128-47 would allow a fence greater than eight feet in height, the less restrictive provision shall apply.

5. Barbed wire. Notwithstanding provisions for barbed wire found in § 128-47B(6)(b) of this chapter, fences intended to enclose a large-scale ground-mounted solar PV system may contain barbed wire canted out.
6. Height. Large-scale ground-mounted solar PV systems may not exceed 12 feet in height.
7. Minimum lot size. Large-scale ground-mounted solar PV systems shall adhere to the minimum lot size requirements for the zoning district in which the system is located, except that for residential districts, the minimum lot size shall be one acre.
8. Lot coverage requirements. Large-scale ground- mounted solar PV systems shall adhere to the maximum lot coverage requirement for principal uses within the zoning district in which they are located. The lot coverage of a large-scale ground-mounted solar PV system shall be calculated based on the definition of lot coverage found at §§ 128-67.2C and 128-22 of this chapter.
9. Signs. Large-scale ground-mounted solar PV systems classified as a principal use shall adhere to the sign requirements for the zoning district in which they are located.
10. Location in front yard prohibited. Notwithstanding the requirements regulating location of accessory structures found elsewhere in this chapter, large- scale ground-mounted solar PV systems classified as an accessory use shall be prohibited in a front yard, including location in any front yard of a corner lot.

c) Building-mounted solar PV systems.

1. For a building-mounted system installed on a sloped roof:
    a) The highest point of the system shall not exceed the highest point of the roof to which it is attached.
    b) Solar panels shall be parallel to the roof surface, or tilted with no more than an eighteen-inch gap between the module frame and the roof surface.
2. For a building-mounted system installed on a flat roof, the highest point of the system shall not extend more than five feet above the height of the roof.
3. For a building-mounted system, solar panels shall be set back no less than three feet from the edge of the roof to allow for fire access and ventilation. On sloped roofs, this requirement does not apply along that portion of the bottom edge located more than three feet from a side edge. In the event New York State shall adopt regulations that govern the placement of roof-

mounted solar panels for fire prevention purposes, said regulations shall supersede this setback provision.

F. Placement on nonconforming buildings. Notwithstanding the area, lot and bulk requirements of this chapter, building-mounted and building-integrated solar PV systems may be installed:
    1. On the roof of a nonconforming building that exceeds the maximum height restriction, provided the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted.
    2. On a building that does not meet the minimum setback or yard requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.
    3. On a building that exceeds the maximum lot coverage requirements, provided there is no increase in the extent or degree of nonconformity with said requirement.

G. Abandonment and decommissioning.
    1. Applicability and purpose. This section governing abandonment and decommissioning shall apply to large-scale ground-mounted solar PV systems with a rated capacity of 200 kW or more, hereinafter referred to as "commercial solar PV systems." It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Bethlehem by requiring abandoned commercial solar PV systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the recently emerging solar industry where multiple solar companies have filed for bankruptcy, closed or been acquired creates an environment for systems to be abandoned, thereby creating a negative visual impact on the Town. Abandoned commercial systems may become unsafe by reason of their energy-producing capabilities and serve as an attractive nuisance.
    2. Abandonment. A commercial solar PV system shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one year. A commercial solar PV system also shall be deemed abandoned if following site plan approval initial construction of the system has commenced and is not completed within 18 months of issuance of the first building permit for the project.
        a) Extension of time. The time at which a commercial solar PV system shall be deemed abandoned may be extended by the Planning Board for one additional period of one year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service, at no less than 80% of its rated capacity, within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the commercial solar PV system owner prior to abandonment as defined herein. Extenuating circumstances as to why the commercial solar PV system has not been operating or why construction has not been completed may be considered by the Board in determining whether to grant an extension.

3. Removal required. A commercial solar PV system which has been abandoned shall be decommissioned and removed. The commercial solar PV system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove all components of the system within one year of abandonment. Removal of the commercial solar PV system shall be in accordance with a decommissioning plan approved by the Planning Board.
4. Decommissioning and removal.
    a) Decommissioning and removal of a commercial solar PV system shall consist of:
        1. Physical removal of all aboveground and below- ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site;
        2. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations;
        3. Restoration of the ground surface and soil;
        4. Stabilization and revegetation of the site with native seed mixes and/or plant species (excluding invasive species) to minimize erosion.
    b) Upon petition to the Planning Board, the Board may permit the system owner and/or landowner to leave certain underground or aboveground improvements in place, provided the owner can show that such improvements are part of a plan to redevelop the site, are not detrimental to such redevelopment and do not adversely affect community character or the environment.
5. Special use permit conditions. The following conditions shall apply to all special use permits issued for a commercial solar PV system. No special use permit shall be issued unless the Planning Board finds that the conditions have been or will be met.
    a) Decommissioning plan. All applications for a commercial solar PV system shall be accompanied by a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the system. The decommissioning plan shall address those items listed in § 128.67.2G(4) above and include:
        1. An estimate of the anticipated operational life of the system;
        2. Identification of the party responsible for decommissioning;
        3. Description of any agreement with the landowner regarding decommissioning;
        4. A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work;
        5. A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar PV system;

6. A financial plan to ensure that financial resources will be available to fully decommission the site.

b) Financial surety. Prior to the issuance of a building permit and every three years thereafter, the commercial solar PV system owner and/or landowner shall file with the Town evidence of financial security to provide for the full cost of decommissioning and removal of the solar PV system in the event the system is not removed by the system owner and/or landowner. Evidence of financial security shall be in effect throughout the life of the system and shall be in the form of an irrevocable letter of credit or other security acceptable to the Planning Board. The irrevocable letter of credit shall include an auto extension provision, to be issued by an A-rated institution solely for the benefit of the Town. The Town shall be entitled to draw on the letter of credit in the event that the commercial solar PV system owner and/or landowner is unable or unwilling to commence decommissioning activities within the time periods specified herein. No other parties, including the owner and/or landowner shall have the ability to demand payment under the letter of credit. Upon completion of decommissioning, the owner and/or landowner may petition the Town to terminate the letter of credit. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of financial security with the Town at the time of transfer, and every three years thereafter, as provided herein.
    1. Amount. The amount of the surety shall be determined by the Town Engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the surety may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

c) Annual report. The commercial solar PV system owner shall on a yearly basis provide the Town Building Inspector a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change in ownership of the solar PV system and/ or the land upon which the system is located and shall identify any change in the party responsible for decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the commercial solar PV system. The Town may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a

report as required herein shall be considered a violation subject to the penalties of § 128-83 of this chapter.

6. Decommissioning and removal by Town. If the commercial solar PV system owner and/or landowner fails to decommission and remove an abandoned facility in accordance with the requirements of this section, the Town may enter upon the property to decommission and remove the system.
    a) Procedure.
        1. Upon a determination by the Building Inspector that a commercial solar PV system has been abandoned, the Building Inspector shall notify the system owner, landowner and permittee by certified mail: a] in the case of a facility under construction, to complete construction and installation of the facility within 180 days; or b] in the case of a fully constructed facility that is operating at a rate of less than 10% of its rated capacity, to restore operation of the facility to no less than 80% of rated capacity within 180 days, or the Town will deem the system abandoned and commence action to revoke the special use permit and require removal of the system.
        2. Being so notified, if the system owner, landowner and/or permittee fails to perform as directed by the Building Inspector within the one-hundred-eighty-day period, the Building Inspector shall notify the system owner, landowner and permittee, by certified mail, that the solar PV system has been deemed abandoned and the Town intends to revoke the special use permit within 60 days of mailing said notice. The notice shall also state that the permittee may appeal the Building Inspector's determination of abandonment to the Planning Board and request a hearing on the matter.
        3. Said appeal and request for hearing must be made and received by the Town within 20 days of mailing notice. Failure by the permittee to submit an appeal and request for hearing within the twenty-day period will result in the special use permit being deemed revoked as stated herein.
        4. In the event the permittee appeals the determination of the Building Inspector and requests a hearing, the Planning Board shall schedule and conduct said hearing within 60 days of receiving the appeal and request. In the event a hearing is held, the Planning Board shall determine whether the solar PV system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Board, or whether to revoke the permit and order removal of the solar PV system.
        5. Upon a determination by the Building Inspector or Planning Board that a special use permit has been revoked, the decommissioning plan must be implemented and the system removed within one year of having been deemed abandoned or

the Town may cause the removal at the owner and/or landowner's expense. If the owner and/or landowner fails to fully implement the decommissioning plan within one year of abandonment, the Town may collect the required surety and use said funds to implement the decommissioning plan.

7. Removal by Town and reimbursement of Town expenses. Any costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a commercial solar PV system, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner or landowner as provided in § 128.67.2G(5)(b) herein. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.